

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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| <b>Rebecca M. Behnkie on behalf of, and as<br/>parent and natural guardian of Nathaniel<br/>Behnkie, a minor,</b> | ) | <b>Court File No. 04-03282 RJK/AJB</b>   |
| <b>Plaintiffs,</b>  | ) |  |
| <b>v.</b>   | ) | <b>NOTICE OF APPEAL OF<br/>DEFENDANTS CANADIAN<br/>PACIFIC RAILWAY, ET AL.</b> |
| <b>Canadian Pacific Railway Company,</b>  | ) |  |
| <b>Canadian Pacific Limited, Canadian<br/>Pacific Railway Limited and Soo Line<br/>Railroad Company,</b>          | ) |  |
| <b>Defendants.</b>  | ) |  |

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Notice is hereby given that Canadian Pacific Railway Company, Canadian Pacific Limited, Canadian Pacific Railway Limited and Soo Line Railroad Company (collectively, "CP"), pursuant to 28 U.S.C. § 1291, hereby appeals to the United States Court of Appeals for the Eighth Circuit from the District Court's Memorandum Opinion and Order, dated March 9, 2005, wherein the Court declined to exercise supplemental jurisdiction and remanded plaintiffs' claims to Hennepin County District Court. Judgment was entered on March 9, 2005. The District Court's order is appealable under *Lindsey v. Dillard's*, 306 F.3d 596, 598-99 (8th Cir. 2002) and *Gaming Corp. of America v. Dorsey & Whitney*, 88 F.3d 536, 541-42 (8th Cir. 1996).

CP also appeals to the United States Court of Appeals for the Eighth Circuit from the Magistrate Judge's interlocutory Order on Plaintiffs' Motion to Amend the Complaint Prior to a Responsive Pleading by Defendants, dated January 31, 2005, in which the plaintiffs' related motion to amend their complaint to remove federal claims was granted, which was a predicate to the District Court's Memorandum Opinion and Order, dated March 9, 2005.

**BRIGGS AND MORGAN, P.A.**

Date: March 25, 2005

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